THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.1881 OF 2006

Dt.1.2.2006

Between:

M.Ahmed Baig … Petitioner

And

Transmission Corporation of A.P.Limited,

rep. by its Managing Director,

Hyderabad and 2 others. … Respondents

ORDER:

Petitioner questions the notice issued by the 2nd respondent in Lr.No.ADE/O/Q.Pur/F.Pilf./D.No.232, dated 29.1.2006 as illegal and arbitrary and contrary to the provisions of Section 126 of the Electricity Act, 2003 and consequently set aside the same.

The petitioner is running a small stone crusher having service connection bearing No.37-259 (Cat-III) in the name of one C.R.Laxminarayana obtained from the erstwhile APSEB presently APTRANSCO. It is stated that the 2nd respondent inspected the petitioner's service connection on 28.1.2006 and issued the provisional assessment notice dated 29.1.2006 estimating the value of the energy pilferage at Rs.8,41,037/- on the ground that the petitioner is indulging in pilferage of energy and accordingly disconnected the said service connection. It is stated that the petitioner is asked to pay 50% of the said amount for obtaining restoration of power supply.

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing on behalf of the respondents.

I am of the opinion that basing on the provisional assessment notice the service connection of the petitioner cannot be disconnected unless an opportunity is given to the petitioner to file objections and after considering the said objections final assessment order is passed by the respondents. There is no such power, while issuing provisional assessment notice, to forthwith stop or disconnect the electricity supply under Section 126 of the said Act. After receiving the objections from the petitioner, the provisional assessing officer shall pass final orders, which are appealable.

Having regard to the facts and circumstances of the case, the impugned notice is to be treated as show cause notice and the petitioner is directed to file objections within one week from the date of receipt of a copy of this order and on filing such objections the respondents may consider the same and pass appropriate final order under Section 126 of the Electricity Act, 2003. Till then, the 2nd respondent is directed to restore power supply to the petitioner's service connection bearing No.37-259 (in the name of C.R.Laxminarayana), situated at Gajularamaram, Jagadgirigutta, Qutubullahpur Mandal, Ranga Reddy District, without insisting the payment of the said demanded amount. Obviously, any amount paid by the petitioner pursuant to the impugned notice will be liable to be adjusted against the amount to be finally assessed by the concerned authority.

The writ petition is accordingly disposed of. No costs.

(V.ESWARAIAH, J.)

1.2.2006

Note: Issue copy within two days

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